

COMPLAINT NUMBER	20/301
COMPLAINT ON BEHALF OF	The Society for Science Based Healthcare
ADVERTISER	Your Health Naturally Ltd
ADVERTISEMENT	Your Health Naturally Ltd website
DATE OF MEETING	22 September 2020
OUTCOME	Upheld Advertisement to be removed

Summary of the Complaints Board Decision

The Complaints Board upheld a complaint about the Your Health Naturally website advertisement for the Negative Ion Magnetic Bracelet. The Board said the advertisement was misleading because it made therapeutic claims that were not substantiated.

Advertisement

The Your Health Naturally website advertisement for the Negative Ion Magnetic Bracelet said:

“Tourmaline ... is one of only a handful of minerals that have the ability to emit negative ions ... it has been shown as a useful aid for improving circulation, reducing stress, improving brain alertness and activating the immune system...”

“Before wearing the Ion Balance bracelet/necklace, the body’s red blood cells are piling up because of electrical devices, cigarettes, and all other positive ions producing sources. After the absorption of the negative ions, the red cells begin to disperse and the blood becomes purer.”

Summary of the Complaint

The Complainant was concerned the advertisement made unsubstantiated therapeutic claims.

Issues Raised:

- Social responsibility
- Truthful presentation

Summary of the Advertiser’s Response

The Advertiser defended the advertisement and said the complaint was vexatious and materially false. The Advertiser also said the website had been amended since receiving the complaint, and they wished to settle the complaint.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

THERAPEUTIC AND HEALTH ADVERTISING CODE

Principle 1: Social Responsibility: Therapeutic and Health advertisements shall observe a high standard of social responsibility particularly as consumers often rely on such products, devices and services for their health and wellbeing.

Principle 2: Truthful Presentation: Advertisements shall be truthful, balanced and not misleading. Advertisements shall not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust, exploit their lack of knowledge or without justifiable reason, play on fear. This includes by implication, omission, ambiguity, exaggerated or unrealistic claim or hyperbole.

Rule 2 (a) Truthful presentation: Advertisements shall be accurate. Statements and claims shall be valid and shall be able to be substantiated. Substantiation should exist prior to a claim being made. For medicines and medical devices, therapeutic claims must be consistent with the approved indication(s) (for medicines) or the listed intended purpose (for medical devices).

‘Therapeutic Purpose’ – The Medicines Act provides the following definition:

- (a) preventing, diagnosing, monitoring, alleviating, treating, curing, or compensating for, a disease, ailment, defect, or injury; or
- (b) influencing, inhibiting, or modifying a physiological process; or
- (c) testing the susceptibility of persons to a disease or ailment; or
- (d) influencing, controlling, or preventing conception; or
- (e) testing for pregnancy; or
- (f) investigating, replacing, or modifying parts of the human anatomy.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 15/360 which was Upheld and 16/394 which was Settled.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 15/360 concerned a website advertisement for Magneflex Bracelets on the Magne-Sleep website, which included the heading “Great-Looking Magnetic Pain Relief.”

The Complaints Board said the claim was absolute in nature and the context offered by the rest of the advertisement reinforced the claim and offered no clarification or evidence which substantiated it.

Decision 16/394 concerned a website advertisement for Zenteq magnetic bracelets which made a series of therapeutic claims, which had not been substantiated.

The Chair of the Complaints Board noted the Advertiser had changed the text on the website considerably, in response to the complaint. Noting the self-regulatory action of the Advertiser, the Chair said that it would serve no further purpose to place the matter before the Complaints Board. The Chair ruled that the matter was settled.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was the Negative Ion Magnetic Bracelet will absorb negative ions and purify the blood, to improve your health.

Is the advertisement making any therapeutic claims?

The Complaints Board agreed the advertisement was making therapeutic claims about purifying the blood and improving health.

Is the advertisement misleading?

The Complaints Board said the advertisement was misleading because the therapeutic claims were not substantiated. The Board noted that the minimum substantiation to support a therapeutic claim about a medical device would be the WAND listing, and this had not been provided.

Have the amendments to the advertisement settled the Complaint?

The Complaints Board said the amendments to the advertisement did not settle the complaint. The Board noted that while the amended advertisement did not include the therapeutic claims contained in the original advertisement it did say: "There is more information regarding the No Problem range in our information section." The Board noted that the product description in the "No Problem Jewellery Range" contained the following:

"Tourmaline produces a detoxifying, cleansing effect on the nervous system, as well as the organs and tissues of the body. It has been shown as a useful aid for improving circulation, reducing stress, improving brain alertness and activating the immune system. It has a highly stabilizing effect on our nerves, due to its capacity to generate its own heat" and "Before wearing the Ion Balance bracelet/necklace, the body's red blood cells are piling up because of electrical devices, cigarettes, and all other positive ions producing sources. After the absorption of the negative ions, the red cells begin to disperse and the blood becomes purer."

The Complaints Board said the advertisement was not socially responsible, taking into account context, medium, audience and product and was in breach of Principle 1, Principle 2 and Rule 2(a) of the Therapeutic and Health Advertising Code.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
-

Appendix 1

COMPLAINT

P035BG Negative Ion Magnetic Bracelet 16-24 cm
Therapeutic Product/Service Type: Health Service

Complaint Details:

Your Health Naturally is a Whāngarei based family company selling “natural health aids”. The website names Annwyn Carter Kelly and Neil Carter as “our consultants”. The website mentions that Neil “today is a sub-surface drainage engineer.” Many of the products listed on this website make unsubstantiated therapeutic claims. The whole site appears in need of a good clean-up. Just taking the first product encountered, we see several bad claims. This product is the P035BG Negative Ion Magnetic Bracelet 16-24 cm The therapeutic claims made for this bracelet include the following: [the bracelet will] “release negative ions” After the absorption of [these] negative ions the red cells [in the bloodstream] begin to disperse and the blood becomes purer.” The site says this will: - improve circulation - improve brain alertness and - reduce stress

I think this is a breach of Therapeutic Codes rule 2(a) that advertisements are truthful and “claims shall be able to be substantiated.”

Appendix 2

RESPONSE FROM ADVERTISER, YOUR HEALTH NATURALLY NZ LTD.

Email from Advertiser:

Attached my word document in reply to your email.

Because you addressed this communication to annwyn, she panicked and altered the advertorial on the noproblem products to say almost nothing (See <https://www.yourhealthnaturally.co.nz/category/Ironic-Magnetic-Jewellery>)

and set up an information page with the manufacturers specified wording. This is not an admission of fault on our part.

We only use wording and phrases supplied by product manufacturers, who have spent thousands on research, and who in their own opinion have met advertising standards, and only make statements of what their research has shown. They are well aware of requirement's.

The way this complaint is worded, and plays on wording itself, and makes insinuations, is as dodgy as they insinuate we are.

Attachment:

I believe we have been through this before, in regard to another brand line 'Infinity Pro' energy bands, some years ago, which was resolved to the Authority's satisfaction, because much of

this is just a play on words, and some complainant wanting to restrict the sale of alternative (healthy) products. This complaint in itself is a play on words, and vexatious in nature.

In Background;

We are an agent for Noproblem (-)ion Balance, located in Hong Kong. Their products are patented, and registered with the US FDA. Our contract requires us to use only their provided and approved advertorial information, which we have done. The wording meets advertising standards in the country of origin, and by intention, countries they have agents in. This is precisely to prevent what is now alleged, and in line with their own scientific studies. (And that of many other manufacturers using Tourmaline, magnetic and crystal products) The product is sold as Ionic and Magnetic Jewellery. Every product carries a verification code which can be used in the manufacturers website to check that it is not fake and meets the advertised criteria. It may be that interpretation from Chinese to English has left one or two words here and there that may have a less positive alternative, but the intention was to protect us the agent from claims like this. I list the Manufacturers website with the authorised material. They list science certificates, in Chinese but not downloadable files, but science files from an English manufacturer such as Infinity Pro show exactly the same results. In this industry the information is consistent across multiple sources, manufacturers and science labs, and has been for many years. The Authority should have already dealt with similar complaints and be aware of this material.

Noproblem (-)ion

<https://www.noproblemionbalance.com/About-Noproblem/About-Us/>

Of course we want to settle the complaint, in regards to being compliant, if we are not, but it is defensible because the complaint is materially false.

The complaint states '[the bracelet will] "release negative ions"

That Tourmaline produces negative ions is a scientific fact of life. Anyone can hold a negative ion meter against Tourmaline, or a band with Tourmaline components, and see a reading for themselves. All Noproblem products state (variable) Negative Ion emissions and magnetism for each product, so the purchaser can select the strength and combination they want.

We don't say 'will', we say 'release', a statement of fact I guess, but provable by anyone if they buy a Negative ion meter for themselves. It is common scientific knowledge.

In regard to circulation, brain alertness and stress, we say 'has been shown as a useful aid'. We do not use the word 'will' as alleged.

The complainants' statement is abbreviated from our wording.

After the absorption of [these] negative ions the red cells [in the bloodstream] begin to disperse and the blood becomes purer."

Our text reads;

Blood cell photos. *Before wearing the Ion Balance bracelet/necklace, the body's red blood cells are piling up because of electrical devices, cigarettes, and all other positive ions producing sources. After the absorption of the negative ions, the red cells begin to disperse and the blood becomes purer.*

This is referring to actual blood cell photos taken in a testing Lab., provided in advertorial, and on the packaging, from scientific testing, showing the pictorial difference after exposing the body to Ion Bracelet. It is not an opinion, it does not say therapeutic benefit will accrue to the purchaser. It is stating and showing the result of scientific testing only.

Talking about Chinese/English language interpretation, I would have used the term 'clumping' instead of 'Piling up', and 'blood becomes normal' instead of 'purer', a play on words. However, this paragraph is stated to refer to the provided test photos, which show what is meant.

Testing is done in similar Bio Science Labs to that of Dr Thornton Streeter of the Centre for Bio field Sciences in Pune, India. This facility has all the most advanced bio-feedback technology available on the planet at this time – combined with an expert team of doctors specializing in their use. Many of the other products in our website have actually been tested in this facility, and again, we only use wording supplied by the manufacturer in NZ which has met ASA standards.

Listed here is a sample of Bio Science technique's used worldwide in relation to Tourmaline, Magnetism, and Electromagnetic Fields / Radiation, stress, and devices that are shown to provide some benefit to the human body in certain circumstances. You will note that human bio energy field's photography can even show an unborn child.

<http://www.electrocrystal.com/pip.html>
<https://gdvcamera.com/>
<http://www.electrocrystal.com/esm.html>
http://www.bioscan.com/dtr_bioscan_eis.htm

In summary;

The complaint is defensible.

Our products are natural, organic, minerals and earth sciences.

It is factually incorrect, and alters our wording to suit their complaint purposes. It attempts to infer that myself and daughter Annwyn are not qualified to "consult", and that being a 'subsurface drainage engineer' somehow makes us unqualified to sell 'natural health aids'.

Therefore vexatious in nature.

The wording on products we offer for sale is what is used by the manufacturers' in accordance with their own scientific and substantiated research. Namely;

<https://www.noproblemionbalance.com> Hong Kong. In regards PO35BG bracelet.

<https://lifeenergysolutions.com/> New Zealand. (This is in regards to the insinuation that the whole site is dodgy.)

We offer no wording that is not substantiated by these company's through their own research and third party laboratories. They state in general, results of research, without claiming therapeutic benefit to a buyer, and indeed in this industry, we often refer that any benefits may vary from person to person.

I put it to you that this complaint is without merit.

Notwithstanding the above, we have always been co-operative with regards to ASA standards; we understand the concept of positive and non-positive statements.

As a non-profit site we therefore have used copy from manufacturer's that should be compliant.

FURTHER RESPONSE FROM ADVERTISER, YOUR HEALTH NATURALLY NZ LTD.

(In Response to a Secretariat question about whether the product had a WAND listing)

Well here is the problem. We don't claim this product is a medical device. It is not listed with WAND to my knowledge. It is a silicone wrist band, sold as Ionic and Magnetic Jewellery for \$26, sometimes called an energy band, loaded with Tourmaline and/or magnets. The manufacturer's supply results of testing that show a result on the human body of testing, which is provable and factual. Can you buy a medical device for \$26? Surely that in itself says

something. I can't see that the manufacturers ad is claiming therapeutic results will happen, only what has happened in testing. Therein is the question, which is a matter of opinion for the Board to determine.

We have been through this exact thing before, with "Infinity Pro' and so long as wording used was like 'may, can, is said to' etc, it was cleared of the claim of 'will'. The board has previously cleared an alternate brand we used to sell, with some word changes.